

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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KPM ANALYTICS NORTH AMERICA  
CORPORATION,

Plaintiff,

v.

BLUE SUN SCIENTIFIC, LLC; THE INNOVATIVE  
TECHNOLOGIES GROUP & CO., LTD; ARNOLD  
EILERT; MICHELLE GAJEWSKI; ROBERT  
GAJEWSKI; RACHAEL GLENISTER; GREGORY  
ISRAELSON; IRVIN LUCAS; and PHILIP  
OSSOWSKI,

Defendants.

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Civil Action No. 4:21-cv-10572-LTS

**AFFIDAVIT OF IRVIN LUCAS**

Irvin Lucas hereby deposes and states as follows:

1. I am the president of Defendant Blue Sun Scientific, LLC (“Blue Sun”). I have worked in the NIR industry for 7 years. The facts stated herein are based on my personal knowledge.

2. Archer-Daniels-Midland Company (“ADM”) is a food processing company that has many NIR instruments. Out of the approximately 1,000 NIR instruments owned by ADM, only a small fraction were manufactured by Plaintiff KPM Analytics North America Corporation (“KPM”).

3. Ingredion Corporation (“Ingredion”) is a food ingredient provider that also has many NIR instruments. Less than ten of Ingredion’s NIR instruments were manufactured by KPM, whereas Ingredion owns and uses many other instruments manufactured by other brands.

4. In my experience, it is common for customers in the NIR industry to own NIR instruments manufactured by different manufacturers.

5. As result of the injunction entered in this action, Blue Sun is not permitted to solicit any customer for the sale of a new NIR instrument to replace a non-KPM manufactured instrument (FOSS, Perten, Bruker) as long as that customer owns even a single KPM-manufactured NIR instrument that was sold or serviced by a current employee of Blue Sun while they were employed at KPM. In the case of just ADM and Ingredion, Blue Sun is under order not to replace any of the more than 1,000 non-KPM manufactured NIR instruments.

6. Similarly, Blue Sun cannot service KPM-manufactured instruments despite the fact that KPM is not providing the services to their customers, and the customer asks for Blue Sun's help. This has not only impacted Blue Sun, but also its customers. For example, since the injunction, Ingredion has reached out to Blue Sun on several occasions for NIR service and support on their KPM devices that KPM cannot (or will not) service. While Blue Sun could provide services if not for the injunction, Ingredion is left without a fully functioning NIR solution.

Sworn under the pains and penalties of perjury this 26th day of September, 2022.

*Irvin R. Lucas, IV*

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Irvin Lucas

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on September 26, 2022, a copy of the foregoing was served via the Court's ECF system upon all counsel of record. Paper copies will be sent to those indicated as non-registered participants.

/s/ Dallin R. Wilson

Dallin R. Wilson